S.B. CIVIL MISC. APPEAL NO.26/2007.
(Apachi Bai & Ors. Vs. Jogendra Singh & Ors.)

Date of Order :: 9th January 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. Manoj Rathore, for the appellants.

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Having heard learned counsel for the claimants-appellants and having perused the impugned award dated 30.06.2006 in Claim Case No.119/2003, this Court is satisfied that the instant appeal for enhancement of amount of compensation remains bereft of substance and does not merit admission.

For quantification of compensation to be awarded to the wife, about 70 years in age and six sons in the age of about 36 to 54 years, of the vehicular accident victim Dhanna Ram said to be about 71 years in age, the Tribunal has noticed the submissions of the claimants that the deceased was earning in agriculture; but for want of any cogent evidence on record, has taken his notional income at Rs.15,000/- per annum and deducting one-third wherefrom and with application of multiplier of 5 has assessed pecuniary loss at Rs.50,000/- and allowing Rs.2,000/- towards funeral expenses and Rs.5,000/- to the wife for loss of consortium and total Rs.12,000/- to the other claimants towards non-pecuniary loss, has awarded

compensation in the sum of Rs.69,000/-. The Tribunal has allowed interest @ 6% per annum from the date of filing of the claim application.

The Tribunal has noticed the fact that the age of the deceased was mentioned in the postmortem report at 80 years and of the fact that each of the sons of the deceased was said to be earning independently in the range of Rs.3,000/- to 4,000/- per month and all were living jointly; and has also noticed that the claimants have failed to adduce any proof in relational to agriculture land of the deceased and lesser likelihood of his engaging himself in agriculture labour in such ripe old age. In the overall facts and circumstances of the case, the assessment of loss made by the Tribunal by taking notional income of the deceased and with application of multiplier of 5 cannot be said to be unjust or unreasonable.

In the ultimate analysis, the award amount cannot be said to be too low or inadequate than that of just compensation; and there appears no scope for upward revision in this appeal.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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